

# EXHIBIT 1

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July 8, 2015

VIA ELECTRONIC MAIL

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RE: Depositions and Document Productions; Scheduling  
*ZeniMax Media Inc. et al. v. Oculus VR, LLC et al.*, No. 3:14-cv-01849

Counsel:

This letter addresses various matters raised in Ms. Keefe's letter of July 2, 2015.

Thank you for the information regarding the anticipated substantial completion of Defendants' document production. We do not agree that Defendants' document production will be substantially complete if it does not include (i) documents and testimony from other pending litigations, as addressed in our recent motion to compel (*see* Dkt. No. 175); and (ii) Facebook virtual reality source code and documents (a subject which we have discussed previously, and which will be further addressed in a letter which we will send you shortly under separate cover).

You suggest that we take the depositions of Mr. Antkow and Mr. Dycus in August rather than in July as we had noticed them. The current pre-trial schedule calls for Plaintiffs to make expert disclosures by October 1, 2015, which as a

Michael G. Rhodes  
Heidi L. Keefe  
Richard A. Smith  
July 8, 2015  
Page 2

practical matter requires that Plaintiffs complete depositions substantially in advance of that date. If depositions cannot begin until mid-August, then it is abundantly clear that the current pre-trial schedule is not workable. In that regard, we note the following additional facts:

- The parties' exchange of computer program source code was completed only recently (*i.e.*, on July 1). Just days after the Court's entry of the amended scheduling order (Dkt. No. 134), Defendants unilaterally cancelled the exchange of code that had been scheduled for the end of April 2015, causing the start of code exchange to be delayed by a month.
- The amount of code that has been exchanged is very substantial, and the protective order's limitation to five stand-alone computers per side limits how quickly the parties may analyze that code.
- The production of documents has also taken substantial time. Once that production is substantially complete, the analysis of those documents will necessarily require corresponding analysis of code as described above.

Accordingly, enclosed is a proposed amended schedule that makes modest further extensions to the existing deadlines in view of the progress of discovery in this action. We would like to confer with you this week regarding this proposal in the hope of getting a proposed amended schedule before the Court shortly. Please let us know what times on Thursday or Friday might be convenient for that call. If we can reach agreement on an amended schedule, we can agree to find alternative dates for the noticed depositions in August.

With respect to other issues raised by Ms. Keefe's letter:

It had been our understanding that Mr. Dycus was located in the Los Angeles area, which is why we had noticed his deposition to occur there. We are certainly willing to take his deposition in Palo Alto if that is more convenient to him. In general, we agree that deponents may be deposed at the offices of the deponent's counsel, although we reserve our rights to seek alternative arrangements where appropriate (for example, if technical arrangements are required for the taking of the deposition).

It is also our intention when deposing Defendants' personnel to depose an individual only once. That said, we reserve our rights to seek to reconvene depositions where appropriate, including without limitation in the event of a further document production following a deposition (*see, e.g.*, our pending motion to

Michael G. Rhodes  
Heidi L. Keefe  
Richard A. Smith  
July 8, 2015  
Page 3

compel, Dkt. No. 175), and in the event that Defendants file or amend an answer and affirmative defenses following a deposition (*see* Dkt. No. 172). In that regard, we appreciate your commitment to produce documents subpoenaed from Mr. Antkow by July 20, 2015.

Very truly yours,



Kurt Wm. Hemr

Enclosure

cc: All counsel of record (by e-mail)

(Dkt. Nos. 34, 134)	Event	Original Schedule (Dkt. No. 34)	Amended Schedule (Dkt. No. 134)	Proposed Schedule
¶ 3	Motions for leave to join other parties	Nov. 14, 2014	Aug. 3, 2015	Oct. 5, 2015
¶ 4	Motions for leave to amend pleadings	Dec. 14, 2014	Sept. 1, 2015	Nov. 2, 2015
¶ 5	Designation of expert witnesses and compliance with Fed. R. Civ. P. 26(a)(2) by the party with the burden of proof on a claim	Apr. 28, 2015	Oct. 1, 2015	Dec. 1, 2015
¶ 6	Rebuttal designation of expert witnesses and compliance with Fed. R. Civ. P. 26(a)(2)	May 28, 2015	Nov. 2, 2015	Jan. 13, 2016
¶ 7	Discovery complete	July 16, 2015	Dec. 15, 2015	Feb. 29, 2016
¶ 8	Counsel shall confer and file a joint report setting forth the status of settlement negotiations	July 30, 2015	Dec. 15, 2015	Feb. 29, 2016
¶ 9	All dispositive motions, including motions for summary judgment on all or some of the claims, Daubert motions, and motions to exclude or objections to expert witnesses	Aug. 16, 2015	Jan. 29, 2016	Mar. 29, 2016
¶ 10	Joint pretrial order (including witness list, jury instructions, status of settlement negotiations, and trial briefs)	Oct. 30, 2015	Apr. 8, 2016	June 3, 2016
¶ 11	Exhibits, exhibit lists, witness lists, deposition designations	Nov. 4, 2015	Apr. 20, 2016	June 13, 2016
¶ 12	Pre-trial conference	Nov. 6, 2015	Apr. 22, 2016	June 15, 2016
¶ 12	Objections to witnesses (except expert witnesses), exhibits, and deposition designations	Nov. 9, 2015	Apr. 25, 2016	June 20, 2016
¶ 13	Motions in limine and requested voir dire questions	Nov. 9, 2015	Apr. 25, 2016	June 20, 2016
¶ 14	Objections to the proposed jury instructions	Nov. 9, 2015	Apr. 25, 2016	June 20, 2016
¶ 1	Jury trial (two-week docket)	Nov. 16, 2015	May 2, 2016	June 27, 2016

# EXHIBIT 2

**From:** Kothari, Devin A (NYC)  
**To:** 'rhodesmg@cooley.com'; 'stephen.smith@cooley.com'; 'mcaplan@cooley.com';  
'hkeefe@cooley.com'; 'mweinstein@cooley.com'; 'lstameshkin@cooley.com';  
'jwoodring@cooley.com'; 'FacebookOculusZenimaxMediaInc@cooley.com';  
'eryan@lynnllp.com'; 'rsmith@lynnllp.com'  
**Subject:** ZeniMax Media Inc. et al. v. Oculus VR, LLC et al., No. 3:14-cv-01849 [Deposition  
Scheduling]  
**Date:** 10/14/2015 5:50:51 PM  
**CC:** Project ZeniMax IP DL; phillip.philbin@haynesboone.com;  
Michael.Karson@haynesboone.com  
**BCC:**


**Message:**

Counsel:

Please refer to the attached letter and its enclosures. Also, as requested by Mr. Sammi on the Monday telephone call between counsel, please let us know whether Mr. Rhodes is available to discuss deposition scheduling tomorrow (Thursday, October 15).

Regards,

**Devin A. Kothari**  
**Skadden, Arps, Slate, Meagher & Flom LLP**  
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 Please consider the environment before printing this email.

**Attachments:**

ZeniMax v Oculus - Letter from P Sammi to Defs (Oct 14, 2015).pdf  
Plaintiffs' Deposition Schedule for Initial Depositions (Oct. 14, 2015).pdf  
Plaintiffs'\_Deposition\_Notices\_(Oct\_14,\_2015).zip  
Notice of Subpoena to Katherine Anna Kang (w Sched A).pdf  
Subpoena to Katherine Anna Kang (w Sched A).pdf

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October 14, 2015

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RE: Plaintiffs' Deposition Schedule for Initial Depositions  
*ZeniMax Media Inc. et al. v. Oculus VR, LLC et al.*, No. 3:14-cv-01849

Mike,

As I reiterated with your colleagues on Monday, it is important that we get depositions started right away in light of the schedule and the number of depositions that both sides have indicated they want to take. We have proposed specific dates in October for the depositions of three witnesses, and you have indicated that your client was unavailable at those times. We also proposed deposition dates for seven additional witnesses but did not receive a response on those. The only progress we've seen from your side is an offer to make Mr. Hooper and Ms. Kang available on dates in mid- to late November, but getting started with depositions a month from now won't allow either side to complete all of the depositions within the schedule ordered by the Court.

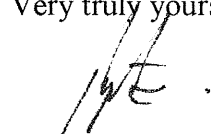
Attached you will find a proposed schedule for initial depositions and associated deposition notices for the months of November and December. Also enclosed is a subpoena to Ms. Kang, which Richard Smith has previously confirmed he is authorized to accept. Given the lack of progress so far, we plan to take the depositions on these dates, at least until we are provided with alternative dates in the same time frame.



Michael G. Rhodes  
Heidi L. Keefe  
Richard A. Smith  
October 14, 2015  
Page 2

I hope you can confirm the attached schedule so we can get on with deposition discovery quickly and efficiently. I look forward to working with you on finalizing.

Very truly yours,




A handwritten signature in black ink, appearing to read "P. Anthony Sammi", written over a horizontal line.

P. Anthony Sammi

Enclosure(s)

**Plaintiffs' Deposition Schedule for Initial Depositions***ZeniMax Media Inc. et al. v. Oculus VR, LLC et al.*

Civil Case No. 3:14-cv-01849-P





<b>November 2015</b>						
<b>Sun</b>	<b>Mon</b>	<b>Tue</b>	<b>Wed</b>	<b>Thu</b>	<b>Fri</b>	<b>Sat</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b> <b>M. Hooper</b> (Dallas, TX)	<b>7</b>
<b>8</b>	<b>9</b> <i>J. Shoemate</i> (Dallas, TX)	<b>10</b>	<b>11</b> <i>M. Wilson</i> (Dallas, TX)  VETERANS DAY	<b>12</b> <i>M. Musick</i> (Dallas, TX)  <i>J. Casey</i> (Dallas, TX)	<b>13</b> <b>K. Kang</b> (Dallas, TX)	<b>14</b>
<b>15</b>	<b>16</b> <b>L. Cooper</b> (Palo Alto, CA)	<b>17</b>	<b>18</b> <b>L. Malamed</b> (Palo Alto, CA)	<b>19</b> <i>C. Voss</i> (Palo Alto, CA)	<b>20</b>	<b>21</b>
<b>22</b>	<b>23</b> <b>B. Iribe</b> (Palo Alto, CA)	<b>24</b>	<b>25</b> 	<b>26</b>   THANKSGIVING DAY	<b>27</b> 	<b>28</b>
<b>29</b>	<b>30</b>					

Key:     *Plaintiffs' Witness*  
              *(Location)*

**Defendants' Witness**  
**(Location)**

**Plaintiffs' Deposition Schedule for Initial Depositions***ZeniMax Media Inc. et al. v. Oculus VR, LLC et al.*

Civil Case No. 3:14-cv-01849-P

<b>December 2015</b>						
<b>Sun</b>	<b>Mon</b>	<b>Tue</b>	<b>Wed</b>	<b>Thu</b>	<b>Fri</b>	<b>Sat</b>
		<b>1</b>	<b>2</b> <b>B. Martin</b> <b>(Palo Alto, CA)</b>	<b>3</b>	<b>4</b> <b>B. Lewis</b> <b>(Palo Alto, CA)</b>	<b>5</b>
<b>6</b>	<b>7</b> <b>P. Giokaris</b> <b>(Palo Alto, CA)</b>	<b>8</b>	<b>9</b> <b>A. Zoufonoun</b> <b>(Palo Alto, CA)</b>	<b>10</b>	<b>11</b> <b>N. Patel</b> <b>(Palo Alto, CA)</b>	<b>12</b>
<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b> <b>P. Luckey</b> <b>(Palo Alto, CA)</b>	<b>17</b>	<b>18</b> <b>M. Zuckerberg</b> <b>(Palo Alto, CA)</b>	<b>19</b>
<b>20</b>	<b>21</b> <b>J. Carmack</b> <b>(Dallas, TX)</b>	<b>22</b>	<b>23</b> 	<b>24</b>  CHRISTMAS EVE	<b>25</b>  CHRISTMAS DAY	<b>26</b>
<b>27</b>	<b>28</b>	<b>29</b>	<b>30</b>	<b>31</b>  NEW YEARS' EVE		

Key:     *Plaintiffs' Witness*  
              *(Location)*

**Defendants' Witness**  
**(Location)**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

ZENIMAX MEDIA INC. and  
ID SOFTWARE LLC,

Plaintiffs,

V.

OCULUS VR, LLC,  
PALMER LUCKEY,  
and FACEBOOK, INC.

Defendants.

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**CIVIL CASE NO. 3:14-cv-01849-P**

**DEPOSITION NOTICE OF JOHN CARMACK**

PLEASE TAKE NOTICE that, pursuant to Rule 30(a)(1) of the Federal Rules of Civil Procedure, Plaintiffs ZeniMax Media Inc. and id Software LLC (collectively, “ZeniMax”) will take the oral and videotaped deposition of John Carmack. The deposition will commence at 9:30 a.m. Central on December 21, 2015, at the offices of Haynes and Boone LLP, 2323 Victory Avenue, Suite 700, Dallas, Texas 75219, or at such other time and place as is mutually agreed upon by the parties. The deposition will be under oath, will take place before a certified court reporter, and may be recorded by stenographic means and by a videographer. Livenote or a comparable technology may be used. The deposition shall continue from day-to-day until completed. The deposition will be taken for purposes of discovery, for use at trial in this matter, and for any other purposes permitted under the Federal Rules of Civil Procedure. You are invited to attend and examine the witness.

Dated: October 14, 2015

Respectfully submitted,

s/ P. Anthony Sammi

---

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*Attorneys for Plaintiffs*  
*ZeniMax Media Inc. and id Software LLC*

### CERTIFICATE OF SERVICE

On October 14, 2015, counsel for Plaintiffs electronically transmitted the attached document to counsel of record via email as indicated below. I hereby certify that I have served all counsel and/or pro se parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

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*Counsel for Defendants Oculus VR, LLC, Palmer Luckey, and Facebook, Inc.*

Dated: October 14, 2015

s/ P. Anthony Sammi  
P. Anthony Sammi

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

ZENIMAX MEDIA INC. and  
ID SOFTWARE LLC,

Plaintiffs,

V.

OCULUS VR, LLC,  
PALMER LUCKEY,  
and FACEBOOK, INC.

Defendants.

[illegible]

**CIVIL CASE NO. 3:14-cv-01849-P**

**NOTICE OF DEPOSITION OF LAIRD MALAMED**

PLEASE TAKE NOTICE that, pursuant to Rule 30(a)(1) of the Federal Rules of Civil Procedure, Plaintiffs ZeniMax Media Inc. and id Software LLC (collectively, “ZeniMax”) will take the oral and videotaped deposition of Laird Malamed. The deposition will commence at 9:30 a.m. Pacific on November 18, 2015, at the offices of Skadden, Arps, Slate, Meagher & Flom LLP, 525 University Avenue, Palo Alto, California 94301, or at such other time and place as is mutually agreed upon by the parties. The deposition will be under oath, will take place before a certified court reporter, and may be recorded by stenographic means and by a videographer. Livenote or a comparable technology may be used. The deposition shall continue from day-to-day until completed. The deposition will be taken for purposes of discovery, for use at trial in this matter, and for any other purposes permitted under the Federal Rules of Civil Procedure. You are invited to attend and examine the witness.

Dated: October 14, 2015

Respectfully submitted,

s/ P. Anthony Sammi

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*Attorneys for Plaintiffs*  
*ZeniMax Media Inc. and id Software LLC*



### CERTIFICATE OF SERVICE

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*Counsel for Defendants Oculus VR, LLC, Palmer Luckey, and Facebook, Inc.*

Dated: October 14, 2015

s/ P. Anthony Sammi  
P. Anthony Sammi

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

ZENIMAX MEDIA INC. and  
ID SOFTWARE LLC,

Plaintiffs,

V.

OCULUS VR, LLC,  
PALMER LUCKEY,  
and FACEBOOK, INC.

Defendants.

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**CIVIL CASE NO. 3:14-cv-01849-P**

**NOTICE OF DEPOSITION OF LEE COOPER**

PLEASE TAKE NOTICE that, pursuant to Rule 30(a)(1) of the Federal Rules of Civil Procedure, Plaintiffs ZeniMax Media Inc. and id Software LLC (collectively, “ZeniMax”) will take the oral and videotaped deposition of Lee Cooper. The deposition will commence at 9:30 a.m. Pacific on November 16, 2015, at the offices of Skadden, Arps, Slate, Meagher & Flom LLP, 525 University Avenue, Palo Alto, California 94301, or at such other time and place as is mutually agreed upon by the parties. The deposition will be under oath, will take place before a certified court reporter, and may be recorded by stenographic means and by a videographer. Livenote or a comparable technology may be used. The deposition shall continue from day-to-day until completed. The deposition will be taken for purposes of discovery, for use at trial in this matter, and for any other purposes permitted under the Federal Rules of Civil Procedure. You are invited to attend and examine the witness.

Dated: October 14, 2015

Respectfully submitted,

s/ P. Anthony Sammi

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*Attorneys for Plaintiffs*  
*ZeniMax Media Inc. and id Software LLC*

### CERTIFICATE OF SERVICE

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*Counsel for Defendants Oculus VR, LLC, Palmer Luckey, and Facebook, Inc.*

Dated: October 14, 2015

s/ P. Anthony Sammi  
P. Anthony Sammi

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

ZENIMAX MEDIA INC. and  
ID SOFTWARE LLC,

Plaintiffs,

V.

OCULUS VR, LLC,  
PALMER LUCKEY,  
and FACEBOOK, INC.

Defendants.

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**CIVIL CASE NO. 3:14-cv-01849-P**

**NOTICE OF DEPOSITION OF MARK ZUCKERBERG**

PLEASE TAKE NOTICE that, pursuant to Rule 30(a)(1) of the Federal Rules of Civil Procedure, Plaintiffs ZeniMax Media Inc. and id Software LLC (collectively, “ZeniMax”) will take the oral and videotaped deposition of Mark Zuckerberg. The deposition will commence at 9:30 a.m. Pacific on December 18, 2015, at the offices of Skadden, Arps, Slate, Meagher & Flom LLP, 525 University Avenue, Palo Alto, California 94301, or at such other time and place as is mutually agreed upon by the parties. The deposition will be under oath, will take place before a certified court reporter, and may be recorded by stenographic means and by a videographer. Livenote or a comparable technology may be used. The deposition shall continue from day-to-day until completed. The deposition will be taken for purposes of discovery, for use at trial in this matter, and for any other purposes permitted under the Federal Rules of Civil Procedure. You are invited to attend and examine the witness.

Dated: October 14, 2015

Respectfully submitted,

s/ P. Anthony Sammi

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*Attorneys for Plaintiffs*  
*ZeniMax Media Inc. and id Software LLC*

### CERTIFICATE OF SERVICE

On October 14, 2015, counsel for Plaintiffs electronically transmitted the attached document to counsel of record via email as indicated below. I hereby certify that I have served all counsel and/or *pro se* parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

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*Counsel for Defendants Oculus VR, LLC, Palmer Luckey, and Facebook, Inc.*

Dated: October 14, 2015

s/ P. Anthony Sammi  
P. Anthony Sammi

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

ZENIMAX MEDIA INC. and  
ID SOFTWARE LLC,

Plaintiffs,

V.

OCULUS VR, LLC,  
PALMER LUCKEY,  
and FACEBOOK, INC.

Defendants.

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**CIVIL CASE NO. 3:14-cv-01849-P**

**DEPOSITION NOTICE OF MATTHEW HOOPER**

PLEASE TAKE NOTICE that, pursuant to Rule 30(a)(1) of the Federal Rules of Civil Procedure, Plaintiffs ZeniMax Media Inc. and id Software LLC (collectively, “ZeniMax”) will take the oral and videotaped deposition of Matthew Hooper. The deposition will commence at 9:30 a.m. Central on November 6, 2015, at the offices of Haynes and Boone LLP, 2323 Victory Avenue, Suite 700, Dallas, Texas 75219, or at such other time and place as is mutually agreed upon by the parties. The deposition will be under oath, will take place before a certified court reporter, and may be recorded by stenographic means and by a videographer. Livenote or a comparable technology may be used. The deposition shall continue from day-to-day until completed. The deposition will be taken for purposes of discovery, for use at trial in this matter, and for any other purposes permitted under the Federal Rules of Civil Procedure. You are invited to attend and examine the witness.



Dated: October 14, 2015

Respectfully submitted,

s/ P. Anthony Sammi

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*Attorneys for Plaintiffs*  
*ZeniMax Media Inc. and id Software LLC*

### CERTIFICATE OF SERVICE

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*Counsel for Defendants Oculus VR, LLC, Palmer Luckey, and Facebook, Inc.*

Dated: October 14, 2015

s/ P. Anthony Sammi  
P. Anthony Sammi

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

ZENIMAX MEDIA INC. and  
ID SOFTWARE LLC,

Plaintiffs,

V.

OCULUS VR, LLC,  
PALMER LUCKEY,  
and FACEBOOK, INC.

Defendants.

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**CIVIL CASE NO. 3:14-cv-01849-P**

**NOTICE OF DEPOSITION OF NIRAV PATEL**

PLEASE TAKE NOTICE that, pursuant to Rule 30(a)(1) of the Federal Rules of Civil Procedure, Plaintiffs ZeniMax Media Inc. and id Software LLC (collectively, “ZeniMax”) will take the oral and videotaped deposition of Nirav Patel. The deposition will commence at 9:30 a.m. Pacific on December 11, 2015, at the offices of Skadden, Arps, Slate, Meagher & Flom LLP, 525 University Avenue, Palo Alto, California 94301, or at such other time and place as is mutually agreed upon by the parties. The deposition will be under oath, will take place before a certified court reporter, and may be recorded by stenographic means and by a videographer. Livenote or a comparable technology may be used. The deposition shall continue from day-to-day until completed. The deposition will be taken for purposes of discovery, for use at trial in this matter, and for any other purposes permitted under the Federal Rules of Civil Procedure. You are invited to attend and examine the witness.

Dated: October 14, 2015

Respectfully submitted,

s/ P. Anthony Sammi

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*Attorneys for Plaintiffs*  
*ZeniMax Media Inc. and id Software LLC*

### CERTIFICATE OF SERVICE

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*Counsel for Defendants Oculus VR, LLC, Palmer Luckey, and Facebook, Inc.*

Dated: October 14, 2015

s/ P. Anthony Sammi  
P. Anthony Sammi

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

ZENIMAX MEDIA INC. and  
ID SOFTWARE LLC,

Plaintiffs,

V.

OCULUS VR, LLC,  
PALMER LUCKEY,  
and FACEBOOK, INC.

Defendants.

**CIVIL CASE NO. 3:14-cv-01849-P**

**NOTICE OF DEPOSITION OF PALMER LUCKEY**

PLEASE TAKE NOTICE that, pursuant to Rule 30(a)(1) of the Federal Rules of Civil Procedure, Plaintiffs ZeniMax Media Inc. and id Software LLC (collectively, “ZeniMax”) will take the oral and videotaped deposition of Palmer Luckey. The deposition will commence at 9:30 a.m. Pacific on December 16, 2015, at the offices of Skadden, Arps, Slate, Meagher & Flom LLP, 525 University Avenue, Palo Alto, California 94301, or at such other time and place as is mutually agreed upon by the parties. The deposition will be under oath, will take place before a certified court reporter, and may be recorded by stenographic means and by a videographer. Livenote or a comparable technology may be used. The deposition shall continue from day-to-day until completed. The deposition will be taken for purposes of discovery, for use at trial in this matter, and for any other purposes permitted under the Federal Rules of Civil Procedure. You are invited to attend and examine the witness.

Dated: October 14, 2015

Respectfully submitted,

s/ P. Anthony Sammi

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*Attorneys for Plaintiffs*  
*ZeniMax Media Inc. and id Software LLC*

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*Counsel for Defendants Oculus VR, LLC, Palmer Luckey, and Facebook, Inc.*

Dated: October 14, 2015

s/ P. Anthony Sammi  
P. Anthony Sammi



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

ZENIMAX MEDIA INC. and  
ID SOFTWARE LLC,

Plaintiffs,

V.

OCULUS VR, LLC,  
PALMER LUCKEY,  
and FACEBOOK, INC.

Defendants.

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**CIVIL CASE NO. 3:14-cv-01849-P**

**NOTICE OF DEPOSITION OF PETER GIOKARIS**

PLEASE TAKE NOTICE that, pursuant to Rule 30(a)(1) of the Federal Rules of Civil Procedure, Plaintiffs ZeniMax Media Inc. and id Software LLC (collectively, “ZeniMax”) will take the oral and videotaped deposition of Peter Giokaris. The deposition will commence at 9:30 a.m. Pacific on December 7, 2015, at the offices of Skadden, Arps, Slate, Meagher & Flom LLP, 525 University Avenue, Palo Alto, California 94301, or at such other time and place as is mutually agreed upon by the parties. The deposition will be under oath, will take place before a certified court reporter, and may be recorded by stenographic means and by a videographer. Livenote or a comparable technology may be used. The deposition shall continue from day-to-day until completed. The deposition will be taken for purposes of discovery, for use at trial in this matter, and for any other purposes permitted under the Federal Rules of Civil Procedure. You are invited to attend and examine the witness.

Dated: October 14, 2015

Respectfully submitted,

s/ P. Anthony Sammi

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*Attorneys for Plaintiffs*  
*ZeniMax Media Inc. and id Software LLC*

### CERTIFICATE OF SERVICE

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*Counsel for Defendants Oculus VR, LLC, Palmer Luckey, and Facebook, Inc.*

Dated: October 14, 2015

s/ P. Anthony Sammi  
P. Anthony Sammi

IN THE UNITED STATES DISTRICT COURT  
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ZENIMAX MEDIA INC. and  
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Plaintiffs,

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OCULUS VR, LLC,  
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and FACEBOOK, INC.

Defendants.

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**CIVIL CASE NO. 3:14-cv-01849-P**

**NOTICE OF DEPOSITION OF AMIN ZOUFONOUN**

PLEASE TAKE NOTICE that, pursuant to Rule 30(a)(1) of the Federal Rules of Civil Procedure, Plaintiffs ZeniMax Media Inc. and id Software LLC (collectively, “ZeniMax”) will take the oral and videotaped deposition of Amin Zoufonoun. The deposition will commence at 9:30 a.m. Pacific on December 9, 2015, at the offices of Skadden, Arps, Slate, Meagher & Flom LLP, 525 University Avenue, Palo Alto, California 94301, or at such other time and place as is mutually agreed upon by the parties. The deposition will be under oath, will take place before a certified court reporter, and may be recorded by stenographic means and by a videographer. Livenote or a comparable technology may be used. The deposition shall continue from day-to-day until completed. The deposition will be taken for purposes of discovery, for use at trial in this matter, and for any other purposes permitted under the Federal Rules of Civil Procedure. You are invited to attend and examine the witness.

Dated: October 14, 2015

Respectfully submitted,

s/ P. Anthony Sammi

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*Attorneys for Plaintiffs*  
*ZeniMax Media Inc. and id Software LLC*

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*Counsel for Defendants Oculus VR, LLC, Palmer Luckey, and Facebook, Inc.*

Dated: October 14, 2015

s/ P. Anthony Sammi  
P. Anthony Sammi



Dated: October 14, 2015

Respectfully submitted,

s/ P. Anthony Sammi

---

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*Attorneys for Plaintiffs*  
*ZeniMax Media Inc. and id Software LLC*



### CERTIFICATE OF SERVICE

On October 14, 2015, counsel for Plaintiffs electronically transmitted the attached document to counsel of record via email as indicated below. I hereby certify that I have served all counsel and/or *pro se* parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

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*Counsel for Defendants Oculus VR, LLC, Palmer Luckey, and Facebook, Inc.*

Dated: October 14, 2015

s/ P. Anthony Sammi  
P. Anthony Sammi

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

ZENIMAX MEDIA INC. and  
ID SOFTWARE LLC,

Plaintiffs,

V.

OCULUS VR, LLC,  
PALMER LUCKEY,  
and FACEBOOK, INC.

Defendants.

§ § § § § § § § § § § § § § § §

**CIVIL CASE NO. 3:14-cv-01849-P**

**NOTICE OF DEPOSITION OF BRENDAN IRIBE**

PLEASE TAKE NOTICE that, pursuant to Rule 30(a)(1) of the Federal Rules of Civil Procedure, Plaintiffs ZeniMax Media Inc. and id Software LLC (collectively, “ZeniMax”) will take the oral and videotaped deposition of Brendan Iribe. The deposition will commence at 9:30 a.m. Pacific on November 23, 2015, at the offices of Skadden, Arps, Slate, Meagher & Flom LLP, 525 University Avenue, Palo Alto, California 94301, or at such other time and place as is mutually agreed upon by the parties. The deposition will be under oath, will take place before a certified court reporter, and may be recorded by stenographic means and by a videographer. Livenote or a comparable technology may be used. The deposition shall continue from day-to-day until completed. The deposition will be taken for purposes of discovery, for use at trial in this matter, and for any other purposes permitted under the Federal Rules of Civil Procedure. You are invited to attend and examine the witness.

Dated: October 14, 2015

Respectfully submitted,

s/ P. Anthony Sammi

---

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Facsimile No.: 212-735-2000

*Attorneys for Plaintiffs*  
*ZeniMax Media Inc. and id Software LLC*

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*Counsel for Defendants Oculus VR, LLC, Palmer Luckey, and Facebook, Inc.*

Dated: October 14, 2015

s/ P. Anthony Sammi  
P. Anthony Sammi



Dated: October 14, 2015

Respectfully submitted,

s/ P. Anthony Sammi

---

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*Attorneys for Plaintiffs*  
*ZeniMax Media Inc. and id Software LLC*

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*Counsel for Defendants Oculus VR, LLC, Palmer Luckey, and Facebook, Inc.*

Dated: October 14, 2015

s/ P. Anthony Sammi  
P. Anthony Sammi

# EXHIBIT 3



---

**From:** Sammi, P. Anthony (NYC)  
**Sent:** Tuesday, October 27, 2015 3:10 PM  
**To:** Rhodes, Michael  
**Cc:** Richard Smith; Project ZeniMax IP DL; z/Facebook-Oculus/Zenimax Media Inc; phillip.philbin@haynesboone.com; Karson, Michael <Michael.Karson@haynesboone.com> (Michael.Karson@haynesboone.com)  
**Subject:** Re: Depo Scheduling

I will revert on the date you provide for Mr. Zoufonoun.

Regarding Mr. Patel, our schedules are not static and we noticed that date weeks ago, you confirmed hours ago. As I said, we will confirm shortly.

To be clear, regarding your citation of the *Dondi* case, Plaintiffs have certainly made every effort to confer in good faith, and on that the record is clear: from requesting dates months ago to providing a two month calendar for you to markup and return (which you did not), to requesting on our own initiative multiple telephone conferences, and more.

None of this is happening "at the drop of a hat." You have provided no bound (other than the close of discovery) for when you will get us alternate dates for key witnesses. I do not want December (or any period for that matter) to be underutilized for depositions given the number that are anticipated.

Please let me know when we can expect alternate dates from you.

T.

P. Anthony Sammi  
Partner

---

Skadden Arps et al.  
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Email: [anthony.sammi@skadden.com](mailto:anthony.sammi@skadden.com)

On Oct 27, 2015, at 2:46 PM, Rhodes, Michael <[RHODESMG@cooley.com](mailto:RHODESMG@cooley.com)> wrote:

Tony, I'm working on getting other dates. Thus, I was just given January 19 for Mr. Zoufonoun in the Bay Area.

On Nirav Patel, we agreed to the date you unilaterally picked (December 11) so I'm not sure what you "need to confirm."

On the others, folks are busy and sometimes I can't promise you a date certain at the drop of a hat. We've given you a number of dates at this point so we don't understand your insistence that the

notices are binding even after I've told you our people are not available on the dates you picked without our input. The discovery cut off is not until the middle of next year.

As you know, in the *Dondi* case, our Court stated "[l]awyers should, when practical, consult with opposing counsel before scheduling ... depositions in a good faith attempt to avoid scheduling conflict." 121 F.R.D. at 293.

As I noted, we will file a short motion to protect our record since you have not withdrawn the subject notices.

Mike

**Michael G. Rhodes**

Cooley LLP / San Francisco

Land: (415) 693-2181 • Mobile: (858) 205-3734

Bio: [www.cooley.com/rhodesmg](http://www.cooley.com/rhodesmg)

---

**From:** Sammi, P. Anthony [<mailto:Anthony.Sammi@skadden.com>]

**Sent:** Tuesday, October 27, 2015 10:50 AM

**To:** Rhodes, Michael

**Cc:** Richard Smith; [DLPZENIMAX@skadden.com](mailto:DLPZENIMAX@skadden.com); z/Facebook-Oculus/Zenimax Media Inc; [phillip.philbin@haynesboone.com](mailto:phillip.philbin@haynesboone.com); Karson, Michael <[Michael.Karson@haynesboone.com](mailto:Michael.Karson@haynesboone.com)> ([Michael.Karson@haynesboone.com](mailto:Michael.Karson@haynesboone.com))

**Subject:** RE: Depo Scheduling

I will get back to you shortly re: Nirav Patel's deposition, we should be able to make Dec 11 work but I need to confirm.

With regard to depositions other than Mark Zuckerberg's, why not simply provide dates so we can avoid motion practice?

With regard to Mark Zuckerberg's deposition, we cannot agree and it remains our position that you have no good faith basis to seek a protective order in this circumstance.

T.

---

**From:** Rhodes, Michael [<mailto:RHODESMG@cooley.com>]

**Sent:** Tuesday, October 27, 2015 1:24 PM

**To:** Sammi, P. Anthony (NYC)

**Cc:** Richard Smith; Project ZeniMax IP DL; z/Facebook-Oculus/Zenimax Media Inc; [phillip.philbin@haynesboone.com](mailto:phillip.philbin@haynesboone.com); Karson, Michael <[Michael.Karson@haynesboone.com](mailto:Michael.Karson@haynesboone.com)> ([Michael.Karson@haynesboone.com](mailto:Michael.Karson@haynesboone.com))

**Subject:** RE: Depo Scheduling

We can confirm the following depositions:

- Nov. 9 – Shoemate (TX)
- Nov. 10 – Casey (TX)
- Nov. 11 – Wilson (TX)
- Nov. 12 – Hooper (TX)
- Nov. 13 – Musick (TX)
- Nov. 16 – Cooper (CA)

Nov. 18 – Voss (CA)  
Nov. 20 – Kang (TX)  
Dec. 8 – Giokaris (CA)  
Dec. 18 – Carmack (TX)

As for Brendan Marten, we are checking with him to see if December 1 works and will let you know as soon as possible.

Additionally, as I noted yesterday, Nirav Patel is available on December 11, the date you requested. Please confirm this today.

As we have already told you, we will be providing you with dates for the depositions of Brant Lewis, Laird Malamed, Amin Zoufonoun, Palmer Luckey and Brendan Iribe and in the meantime will be filing a short motion for a protective order since you stated that you will insist on these depositions going forward on the unilaterally chosen dates (notwithstanding our request that you agree to stand down so we do not have to burden the court with yet another motion).

We also disagree with your stance on Mark Zuckerberg's deposition and, as we've said, will be moving forward with our apex motion.

Best,

Mike

**Michael G. Rhodes**

Cooley LLP / San Francisco

Land: (415) 693-2181 • Mobile: (858) 205-3734

Bio: [www.cooley.com/rhodesmg](http://www.cooley.com/rhodesmg)

---

**From:** Sammi, P. Anthony [<mailto:Anthony.Sammi@skadden.com>]  
**Sent:** Monday, October 26, 2015 1:48 PM  
**To:** Rhodes, Michael  
**Cc:** Richard Smith; [DLPZENIMAX@skadden.com](mailto:DLPZENIMAX@skadden.com); z/Facebook-Oculus/Zenimax Media Inc; [phillip.philbin@haynesboone.com](mailto:phillip.philbin@haynesboone.com); Karson, Michael <[Michael.Karson@haynesboone.com](mailto:Michael.Karson@haynesboone.com)> ([Michael.Karson@haynesboone.com](mailto:Michael.Karson@haynesboone.com))  
**Subject:** RE: Depo Scheduling

Mike,

I follow-up on my email to you of last Friday, which is in the e-mail string below.

**Plaintiffs' Rule 30(b)(6) Deposition Notices:**

I have today issued under separate cover Plaintiffs' Rule 30(b)(6) deposition notices for Oculus and Facebook.

**Confirmation of Certain Deposition Dates:**

Please confirm the below as soon as possible – some dates have been modified slightly based upon your return proposals to our original notices and/or for logistics or travel. Where that is the case, I have indicated as such:

Nov. 9 – Shoemate (TX)  
Nov. 10 – Casey (TX) (originally noticed for 11/12, but changed due to your Hooper counter-proposal)  
Nov. 11 – Wilson (TX)  
Nov. 12 – Hooper (TX) (we accept your proposed date)  
Nov. 13 – Musick (TX) (originally noticed for 11/12, but changed due to your Hooper counter-proposal)  
Nov. 16 – Cooper (CA)  
Nov. 18 – Voss (CA) (originally noticed for 11/19, but moved one day for logistics)  
Nov. 20 – Kang (TX) (we accept your proposed date)  
Dec. 1 – Martin (CA) (originally noticed for 12/2, but moved one day for logistics)  
Dec. 8 – Giokaris (CA) (we accept your proposed date)  
Dec. 18 – Carmack (TX) (we accept your proposed date)

**Outstanding Deposition Notices:**

There are several other critical witnesses that Plaintiffs have noticed. Defendants have refused to agree to produce these witnesses on their notice dates and have not provided any alternative dates. As mentioned in my email below, that tactic is unworkable given the current case schedule that Plaintiffs have every intention of retaining. In the event Defendants do not provide alternate dates by tomorrow, we will stand on our notices and appear for deposition on the dates identified. Outstanding notices that were served almost two weeks ago and for which Defendants have given no alternate dates are listed below:

Laird Malamed (noticed for Nov. 18 – Defendants mentioned that they will present Malamed during the weeks of Dec. 14 or Dec. 21, please provide a firm date)  
Brendan Iribe (noticed for Nov. 23 – Defendants refuse date but have provided no alternative)  
Brant Lewis (noticed for Dec. 4 – Defendants refuse date but have provided no alternative)  
Amin Zoufonoun (noticed for Dec. 9 – Defendants refuse date but have provided no alternative)  
Nirav Patel (noticed for Dec. 11 – Defendants refuse date but have provided no alternative)  
Palmer Luckey (noticed for Dec. 16 – Defendants refuse date but have provided no alternative)

**Deposition of Mark Zuckerberg:**

We have noticed Mr. Zuckerberg's deposition for Dec. 18. You have indicated that you will move on apex grounds to prevent that deposition from occurring, and you have thus refused that date and have offered no alternative dates. You have no good faith basis for opposing this deposition on apex grounds: if it had been, for example, a vice president of Facebook who had trialed and tested the prototype Rift and made the decision to acquire Oculus, we would be asking for that person's deposition, but the undisputed fact is that Mr. Zuckerberg was personally and instrumentally involved. Plaintiffs therefore require Mr. Zuckerberg's deposition.

You have further indicated that Mr. Zuckerberg is having a child in the month of December. While we will of course seek to accommodate Mr. Zuckerberg's personal schedule, in the absence of any proposal from you, Plaintiffs stand on his notice as served.

I look forward to hearing from you on the above.

Regards,  
Tony

-----Original Message-----  
From: Sammi, P. Anthony (NYC)  
Sent: Friday, October 23, 2015 4:29 PM

To: 'Rhodes, Michael'

Cc: Richard Smith; Project ZeniMax IP DL; z/Facebook-Oculus/Zenimax Media Inc;  
[phillip.philbin@haynesboone.com](mailto:phillip.philbin@haynesboone.com); Karson, Michael <[Michael.Karson@haynesboone.com](mailto:Michael.Karson@haynesboone.com)>  
([Michael.Karson@haynesboone.com](mailto:Michael.Karson@haynesboone.com))

Subject: RE: Depo Scheduling

Mike,

As I've said before and we all know, the parties have as many as 40-50 depositions to complete in the next few months, and we have been attempting to get deposition dates from you since June of this year. We have made progress on locking down dates (to be confirmed shortly) for some witnesses on both sides, but, given the number of outstanding notices and existing discovery deadlines, this process cannot continue at this pace. We're always willing to work with you to schedule any of the depositions in a way that is convenient for the parties, but responses that several critical witnesses are not available (weeks and months out, absent explanation) and without providing any alternative dates is not workable. Absent getting alternate dates in short order for our deposition notices, we will be forced to stand on our notices and expect the depositions to proceed as noticed. Please let me know when we can expect confirmations and/or alternate dates. If you feel you must move the Court, please also include this communication.

As to the other issues you raised: we plan on serving 30(b)(6) notices on Monday of next week. You will also get our objections to your 30(b)(6) topics concurrently or shortly thereafter.

From our last call, for existing depo date proposals from both sides, we expect to confirm or propose alternates on Monday.

T.

-----Original Message-----

From: Rhodes, Michael [mailto:[RHODESMG@cooley.com](mailto:RHODESMG@cooley.com)]

Sent: Friday, October 23, 2015 11:53 AM

To: Sammi, P. Anthony (NYC)

Cc: Richard Smith; Project ZeniMax IP DL; z/Facebook-Oculus/Zenimax Media Inc;  
[phillip.philbin@haynesboone.com](mailto:phillip.philbin@haynesboone.com); Karson, Michael <[Michael.Karson@haynesboone.com](mailto:Michael.Karson@haynesboone.com)>  
([Michael.Karson@haynesboone.com](mailto:Michael.Karson@haynesboone.com))

Subject: Re: Depo Scheduling

Michael Rhodes

Cooley LLP/San Francisco

[rhodesmg@cooley.com](mailto:rhodesmg@cooley.com)<<mailto:rhodesmg@cooley.com>>

(858-205-3734)

Tony, we do not have yet alternative dates for these folks, nor are they available on the dates noticed. We are working on getting dates for them and will advise you when we have dates to propose. I assume you are not standing on your notices but if you are please let us know today so we can advise the court and protect our record.

In the meantime, please advise as to your confirmation on the dates we discussed on Wednesday so we may advise our witnesses and arrange our own scheduling for the same and please further advise us on whether you will be sending a 30(b)(6) notice as we discussed on Wednesday (you indicated we would receive it "very soon") and, if not, when you or Phil would be available to have a call with the Magistrate as suggested in Richard's letter.

Note I am out of the office today and Richard's office is closed due to a utility failure and thus we will be difficult to reach today.

Best,  
Mike

On Oct 23, 2015, at 8:37 AM, Sammi, P. Anthony  
<Anthony.Sammi@skadden.com<mailto:Anthony.Sammi@skadden.com>> wrote:

Mike, Richard,

I received Richard's letter yesterday on depo logistics, we'll respond shortly on that. As we look to lock in dates, you were waiting to hear back from Luckey, Iribe, Lewis, Patel, and Zoufounan – pls confirm their availability on our notice dates. Have you been able to confirm Malamed during the week of 12/14? Thanks.

T.

P. Anthony Sammi  
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-----  
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Further information about the firm, a list of the Partners and their professional qualifications will be provided upon request.

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Further information about the firm, a list of the Partners and their professional qualifications will be provided upon request.

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# EXHIBIT 4



**From:** Sammi, P. Anthony (NYC)  
**To:** 'Caplan, Matthew D.'; 'rhodesmg@cooley.com'; 'stephen.smith@cooley.com';  
'mcaplan@cooley.com'; 'hkeefe@cooley.com'; 'mweinstein@cooley.com';  
'lstameshkin@cooley.com'; 'jwoodring@cooley.com';  
'FacebookOculusZenimaxMediaInc@cooley.com'; 'eryan@lynnllp.com';  
'richard@rsmithpc.com'  
**Subject:** RE: ZMI v. FB/OVR/Luckey: Further Deposition Scheduling (Jan 2016)  
**Date:** 11/4/2015 11:28:33 AM  
**CC:** Project ZeniMax IP DL; phillip.philbin@haynesboone.com; Karson, Michael  
<Michael.Karson@haynesboone.com> (Michael.Karson@haynesboone.com)  
**BCC:**

**Message:**

Matt,

On October 14 we suggested a date of November 23 for Mr. Iribe's deposition. So I am clear in reading your email below offering Mr. Iribe on February 4 of next year, is it Defendants' position that Mr. Iribe is not available on any dates for deposition over the next 3 calendar months? Please let me know, thank you.

Regards,  
Tony

**P. Anthony Sammi**  
Partner  
**Skadden, Arps, Slate, Meagher & Flom LLP**  
Four Times Square | New York | 10036-6522  
T: 212.735.2307 | F: 917.777.2307  
anthony.sammi@skadden.com

---

**From:** Caplan, Matthew D. [mailto:mcaplan@cooley.com]  
**Sent:** Tuesday, November 03, 2015 7:49 PM  
**To:** Sammi, P. Anthony (NYC); 'rhodesmg@cooley.com'; 'stephen.smith@cooley.com';  
'mcaplan@cooley.com'; 'hkeefe@cooley.com'; 'mweinstein@cooley.com'; 'lstameshkin@cooley.com';  
'jwoodring@cooley.com'; 'FacebookOculusZenimaxMediaInc@cooley.com'; 'eryan@lynnllp.com';  
'richard@rsmithpc.com'  
**Cc:** Project ZeniMax IP DL; phillip.philbin@haynesboone.com; Karson, Michael  
<Michael.Karson@haynesboone.com> (Michael.Karson@haynesboone.com)  
**Subject:** RE: ZMI v. FB/OVR/Luckey: Further Deposition Scheduling (Jan 2016)

Tony,

Brendan Iribe is available for deposition on February 4, 2016. Please let us know if that date will work.

Thanks,

Matt

**Matt Caplan**  
Cooley LLP

101 California Street • 5th Floor  
San Francisco, CA 94111-5800  
Direct: +1 415 693 2164 • Fax: +1 415 693 2222 • Cell: +1 310 528 1361  
Bio: [www.cooley.com/mcaplan](http://www.cooley.com/mcaplan) • Practice: [www.cooley.com/litigation](http://www.cooley.com/litigation)

**From:** Caplan, Matthew D.

**Sent:** Tuesday, November 03, 2015 4:07 PM

**To:** Sammi, P. Anthony; 'rhodesmg@cooley.com'; 'stephen.smith@cooley.com'; 'mcaplan@cooley.com'; 'hkeefe@cooley.com'; 'mweinstein@cooley.com'; 'lstameshkin@cooley.com'; 'jwoodring@cooley.com'; 'FacebookOculusZenimaxMediaInc@cooley.com'; 'eryan@lynnllp.com'; 'richard@rsmithpc.com'

**Cc:** DLPZENIMAX@skadden.com; phillip.philbin@haynesboone.com; Karson, Michael

<Michael.Karson@haynesboone.com> (Michael.Karson@haynesboone.com)

**Subject:** RE: ZMI v. FB/OVR/Luckey: Further Deposition Scheduling (Jan 2016)

Tony,

We are working on dates for these witnesses with our clients.

We can offer Brant Lewis on December 15. Please let us know if that works, and also let us know about Brendan Marten on December 2.

Thanks,

Matt

**Matt Caplan**

Cooley LLP  
101 California Street • 5th Floor  
San Francisco, CA 94111-5800  
Direct: +1 415 693 2164 • Fax: +1 415 693 2222 • Cell: +1 310 528 1361  
Bio: [www.cooley.com/mcaplan](http://www.cooley.com/mcaplan) • Practice: [www.cooley.com/litigation](http://www.cooley.com/litigation)

**From:** Sammi, P. Anthony [<mailto:Anthony.Sammi@skadden.com>]

**Sent:** Tuesday, November 03, 2015 11:03 AM

**To:** 'rhodesmg@cooley.com'; 'stephen.smith@cooley.com'; 'mcaplan@cooley.com'; 'hkeefe@cooley.com'; 'mweinstein@cooley.com'; 'lstameshkin@cooley.com'; 'jwoodring@cooley.com'; 'FacebookOculusZenimaxMediaInc@cooley.com'; 'eryan@lynnllp.com'; 'richard@rsmithpc.com'

**Cc:** DLPZENIMAX@skadden.com; phillip.philbin@haynesboone.com; Karson, Michael

<Michael.Karson@haynesboone.com> (Michael.Karson@haynesboone.com)

**Subject:** ZMI v. FB/OVR/Luckey: Further Deposition Scheduling (Jan 2016)

Mike,

Attached is an updated deposition calendar that includes January 2016. I've also included associated deposition notices for witnesses in January. As before, while we would like these dates, they are placeholders and I again offer you a calendar to mark up and return. In other words, if any of the dates on the calendar for any of your witnesses work, please confirm, and if any dates don't work please provide alternative dates as soon as practicable. I look forward to working with you to continue scheduling depositions.

We confirm Mr. Zoufonoun on Jan 19, 2016 (and have indicated as such on the calendar), thank you. We will revert on whether Dec. 2 works for us for Mr. Marten.

Regards,  
Tony

**P. Anthony Sammi**  
Partner  
**Skadden, Arps, Slate, Meagher & Flom LLP**  
Four Times Square | New York | 10036-6522  
T: 212.735.2307 | F: 917.777.2307  
[anthony.sammi@skadden.com](mailto:anthony.sammi@skadden.com)

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Further information about the firm, a list of the Partners and their professional qualifications will be provided upon request.

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# EXHIBIT 5

# BUSINESS INSIDER

## Oculus CEO Reveals How He Convinced Mark Zuckerberg To Try The Oculus Rift



STEVEN TWEEDIE  
DEC. 3, 2014, 8:57 AM

Earlier this year, Facebook acquired virtual reality company Oculus for \$2 billion.

Speaking at Business Insider's Ignition conference, Oculus CEO Brendan Iribre told the story of how he first met Mark Zuckerberg.

"I met Mark personally through the



*Michael Soto/Business Insider*

Oculus CEO Brendan Iribre speaking at Business Insider's IGNITION conference.

introduction from

Marc

Andreessen,"

Iribe said. "And I don't know how much he regrets this introduction, it was originally, 'Do you want a reference on me?'"

Oculus was currently raising a round of investment from Andreessen Horowitz so a potential deal with Facebook wasn't even on the horizon yet, but Iribe said he couldn't pass up the chance to meet Zuckerberg.

"I said yeah, it would be good to talk to someone else who worked with you," Iribe said during an interview at Ignition. "Andreessen said, 'How about Zuck?' And I thought, 'Oh, talking to Zuck, that'd be pretty cool, sure, that'd be great!'"

Iribe then began talking with Zuckerberg about Oculus and the Oculus Rift virtual reality headset. Zuckerberg was curious about what the popular applications of the Rift headset would be.

"I said it will start in gaming but it'll eventually go beyond where we really were now, after we got the technology to a very high quality level...you believe, your brain just believes you're really there."

Iribe said that Zuckerberg was particularly interested in the social aspects of the Rift.

"You start to feel like you're really there, the next step is to feel like you're there with other people and be face to face, it's the only platform that can deliver that," Iribe said.

Iribe pressed Zuckerberg to visit the Oculus headquarters for a demo of the Oculus Rift, which he did. When asked what Zuckerberg's first reaction to experiencing the Oculus Rift, Iribe said it took him by surprise.

"He said, 'Wow, that was a lot better than I was expecting it to be,'" Iribe said. "He came out and said, 'I'd like to help, how can I help?'"

Iribe said at the early stages, they weren't sure exactly what Zuckerberg's involvement would be, but they quickly realized that their best bet for bringing Oculus to mainstream audiences would be to be acquired by Facebook, a company which offered [less restrictions than a potential deal with Google, Sony, or Microsoft](#).

To read our interview with Brendan Iribe about what the future holds for Oculus, [click here](#).

Disclosure: Marc Andreessen, co-founder of Andreessen Horowitz, is an

investor in Business Insider.

More: [Oculus Rift Facebook Mark Zuckerberg Brendan Iribe](#)  
[Virtual reality Andreessen Horowitz](#)

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# EXHIBIT 6



## THE WALL STREET JOURNAL.

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<http://www.wsj.com/articles/SB10001424052702304818404577350191931921290>

TECH

# In Facebook Deal, Board Was All But Out of Picture

By SHAYNDI RAICE, SPENCER E. ANTE and EMILY GLAZER

Updated April 18, 2012 3:22 p.m. ET

On the morning of Sunday, April 8, Facebook Inc. 's youthful chief executive, Mark Zuckerberg, alerted his board of directors that he intended to buy Instagram, the hot photo-sharing service.

It was the first the board heard of what, later that day, would become Facebook's largest acquisition ever, according to several people familiar with the matter. Mr. Zuckerberg and his counterpart at Instagram, Kevin Systrom, had already been talking over the deal for three days, these people said.

Negotiating mostly on his own, Mr. Zuckerberg had fielded Mr. Systrom's opening number, \$2 billion, and whittled it down over several meetings at Mr. Zuckerberg's \$7 million five-bedroom home in Palo Alto. Later that Sunday, the two 20-somethings would agree on a sale valued at \$1 billion.

It was a remarkably speedy three-day path to a deal for Facebook—a young company taking pains to portray itself as blue-chip ahead of its initial public offering of stock in a few weeks that could value it at up to \$100 billion. Companies generally prefer to bring in ranks of lawyers and bankers to scrutinize a deal before proceeding, a process that can eat up days or weeks.



INSTADEAL: Facebook CEO Mark Zuckerberg, pictured, largely negotiated the deal over a few days with Instagram's Kevin Systrom. *GETTY IMAGES*

Mr. Zuckerberg ditched all that. By the time Facebook's board was brought in, the deal was all but done. The board, according to one person familiar with the matter, "Was told, not consulted."

Mr. Zuckerberg owns 28% of Facebook's stock, and controls 57% of its voting rights, giving him the freedom to act independently if he wants. Mr. Systrom, similarly, owns about 45% of his company. That control means investors must accept the fact that the CEOs can move quickly.

Advocates argue this can be an asset in an industry—online services and social networking—where competitive threats can emerge with lightning speed. In the Instagram deal, one of Mr. Zuckerberg's concerns was Mr. Systrom might have reacted negatively had he approached him through lawyers, people familiar with

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JOURNAL COMMUNITY »

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the matter said. Facebook's CEO got a hand from Amin Zoufonoun, Facebook's director of corporate development, to hammer out details later in the talks, a person familiar with the matter said.

These sorts of fast decisions, commonplace among scrappy, private start-ups, get trickier in the more structured world of multibillion-dollar public corporations where Facebook will soon operate.



Instagram's Kevin Systrom. *BLOOMBERG NEWS*

"You want the board to provide caution to the CEO," said Ralph A. Walkling, executive director of the Center for Corporate Governance at Drexel University's business school. "They are the last line of defense for minority shareholders."

THE WALL STREET JOURNAL			
<b>THE 10-POINT</b>	<b>YOUR PERSONAL BRIEFING ON THE DAY'S TOP STORIES</b>	Scoops. Hard News. Features.	<b>SIGN UP NOW</b> ►
		Video. Straight to Your Inbox.	

Facebook's board did vote on the deal, according to people familiar with the matter, though it was largely symbolic.

Facebook's chief operating officer, Sheryl Sandberg, learned the Thursday before the deal from Mr. Zuckerberg that he intended to push to acquire Instagram, though she wasn't directly involved in the negotiations, according to a person familiar with the matter. Ms. Sandberg, 42 years old, joined Facebook from Google Inc. in 2008 in part to provide more professional executive support to the company's CEO. Mr. Zuckerberg's handling of the Instagram acquisition is a reminder that Facebook is still in some respects a one-man show.

The three-day sprint to the deal started on April 5, when Mr. Zuckerberg picked up the phone and asked Mr. Systrom to meet. At the time, Mr.

Systrom was just hours from signing a deal for a \$50 million venture-capital investment that would put a \$500 million value on his company, which had just 13 employees and no revenue. Mr. Zuckerberg had been interested in acquiring Instagram since the previous summer and had decided it was time to do a deal.

That night, the two CEOs met at Mr. Zuckerberg's home in Palo Alto's Crescent Park neighborhood.

Wall Street's traditional rules for valuing companies offer little help in putting a number on a company like Instagram. While the start-up, just 18 months old, had no revenue, its fast growth gave Mr. Systrom leverage. His company is strong where Facebook has been weak—on devices like the iPhone—and took aim squarely at Facebook users' favorite activity, sharing photos.

Instagram makes a smartphone "app" that lets people take photos, dress them up with special effects, and easily share them with friends. In the first three months of this year, its user base nearly doubled, to about 30 million, the company says.

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EARLIER

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- Insta-Rich: \$1 Billion for Instagram  
(<http://www.wsj.com/articles/SB10001424052702303815404577333840377381670>)  
4/10/2012

After Instagram released a version of its app for phones powered by Google Inc.'s Android software on April 3, the user base shot up again, to around 35 million at the time of the Facebook deal.

Mr. Zuckerberg was particularly concerned when he saw millions of people signing up for the Android app, people familiar with the matter said. One concern: Facebook was falling behind in mobile as younger start-ups were innovating more quickly.

In the past, Facebook's acquisitions were primarily about bringing in talented engineers. Once Mr. Zuckerberg identified the people he wanted, he typically let others in the company work out the details.

This time, however, he took the lead himself. "Mark spent the time that weekend," said Steve Anderson, a founding partner of venture firm Baseline Ventures, Instagram's first investor. "It was a real statement to Kevin of the importance of why Mark wanted to do it."

The two CEOs began their talks Thursday night at Mr. Zuckerberg's remodeled, century-old home, and met there again Friday and Saturday, wrapping up with a

12-hour session on Sunday, people familiar with the matter said. Each night, Mr. Systrom drove back to his house in San Francisco, one of the people said.

Instagram launched on Oct. 6, 2010. On its first day, it garnered around 25,000 users. By May 2011, it hit 3.75 million. That fast growth attracted suitors early on—including an outreach from Twitter Inc. in early 2011 and from Mr. Zuckerberg that summer, people familiar with the matter said. But Mr. Systrom rebuffed them, intent on building his own company.

Now, however, Mr. Systrom found himself in Mr. Zuckerberg's house asking \$2 billion for Instagram. Mr. Zuckerberg suggested looking at the value of Instagram as a percentage of the value of Facebook, people familiar with the matter said.

Mr. Zuckerberg, who planned to pay for Instagram mostly with stock, asked Mr. Systrom what he thought Facebook would be worth, the people said. If he believed Facebook would one day be worth as much as a company like Google at \$200 billion or more, then the equivalent of 1% of Facebook would be sufficient to meet his price, Mr. Zuckerberg told Mr. Systrom, the people said.

It was as good an argument as any, considering that traditional ways of valuing a company—by its cash flow, or the sum of its parts—are ineffective when that company makes only one product and gives it away free.

Mr. Zuckerberg also offered Mr. Systrom assurances that Instagram could remain independent under Facebook. On Saturday and Sunday, Facebook's Mr. Zoufonoun helped hammer out the details at Mr. Zuckerberg's home. Mr. Zoufonoun declined to comment through a Facebook spokesman.

The arguments were working. Mr. Systrom was on the phone with his investors Sunday as he drove down to Palo Alto around noon for what would be a final day of negotiations, according to a person familiar with the matter. Early that day, Mr. Zuckerberg emailed his board to say a deal was close, people familiar with the matter said.

At around 6 p.m. that evening, Facebook board member Marc Andreessen showed up at Mr. Zuckerberg's house for a regular meeting. What he didn't know was that Mr. Systrom was in another room, getting his own board to sign off, people familiar with the matter said.

Mr. Andreessen, whose venture-capital firm was the second to invest in Instagram, cutting a \$250,000 check before the service launched, was surprised

when Mr. Systrom walked into the room about an hour into his meeting with Mr. Zuckerberg, the people said.

After the CEOs told their boards a deal had been reached, Instagram's investors circulated congratulatory emails, a person familiar with the matter said.

And a day later, Mr. Zuckerberg returned to Instagram, a service he hadn't used since the previous June, posting a photo on Instagram of his white Hungarian Puli, named Beast, "sleeping off the edge of the bed."

—*Joann S. Lublin contributed to this article.*

**Write to** Shayndi Raice at [shayndi.raice@wsj.com](mailto:shayndi.raice@wsj.com), Spencer E. Ante at [spencer.ante@wsj.com](mailto:spencer.ante@wsj.com) and Emily Glazer at [emily.glazer@wsj.com](mailto:emily.glazer@wsj.com)

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# EXHIBIT 7

10-K 1 fb-12312014x10k.htm 10-K

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549**

**FORM 10-K**

(Mark One)

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

**For the fiscal year ended December 31, 2014**

or

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from \_\_\_\_\_ to \_\_\_\_\_  
Commission File Number: 001-35551

**FACEBOOK, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of incorporation or organization)

**20-1665019**

(I.R.S. Employer Identification Number)

**1601 Willow Road, Menlo Park, California 94025**

(Address of principal executive offices and Zip Code)

**(650) 543-4800**

(Registrant's telephone number, including area code)

**Securities registered pursuant to Section 12(b) of the Act:**

**Class A Common Stock, \$0.000006 par value**

(Title of each class)

**The NASDAQ Stock Market LLC**

(Name of each exchange on which registered)

**Securities registered pursuant to Section 12(g) of the Act:**

**None**

(Title of class)

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☒ No ☐

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 (Exchange Act) during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Website, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☒ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§ 229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definition of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer ☒

Accelerated filer ☐

Non-accelerated filer ☐ (Do not check if a smaller reporting company)

Smaller reporting company ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

The aggregate market value of the voting and non-voting stock held by non-affiliates of the registrant as of June 30, 2014, the last business day of the registrant's most recently completed second fiscal quarter, was \$143,589,386,032 based upon the closing price reported for such date on the NASDAQ Global Select Market.

On January 27, 2015, the registrant had 2,236,333,833 shares of Class A common stock and 562,677,981 shares of Class B common stock



outstanding.

**DOCUMENTS INCORPORATED BY REFERENCE**

Portions of the registrant's Proxy Statement for the 2015 Annual Meeting of Stockholders are incorporated herein by reference in Part III of this Annual Report on Form 10-K to the extent stated herein. Such proxy statement will be filed with the Securities and Exchange Commission within 120 days of the registrant's fiscal year ended December 31, 2014.

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and unproven. Any negative outcome from any such lawsuits could result in payments of substantial monetary damages or fines, or undesirable changes to our products or business practices, and accordingly our business, financial condition, or results of operations could be materially and adversely affected. Although the results of such lawsuits and claims cannot be predicted with certainty, we do not believe that the final outcome of those matters relating to our products that we currently face will have a material adverse effect on our business, financial condition, or results of operations. In addition, we are currently the subject of stockholder class action suits in connection with our IPO. We believe these lawsuits are without merit and are vigorously defending these lawsuits.

There can be no assurances that a favorable final outcome will be obtained in all our cases, and defending any lawsuit is costly and can impose a significant burden on management and employees. Any litigation to which we are a party may result in an onerous or unfavorable judgment that may not be reversed upon appeal or in payments of substantial monetary damages or fines, or we may decide to settle lawsuits on similarly unfavorable terms, which could adversely affect our business, financial conditions, or results of operations.

***We may incur liability as a result of information retrieved from or transmitted over the Internet or published using our products or as a result of claims related to our products.***

We have faced, currently face, and will continue to face claims relating to information that is published or made available on our products. In particular, the nature of our business exposes us to claims related to defamation, intellectual property rights, rights of publicity and privacy, and personal injury torts. This risk is enhanced in certain jurisdictions outside the United States where our protection from liability for third-party actions may be unclear and where we may be less protected under local laws than we are in the United States. We could incur significant costs investigating and defending such claims and, if we are found liable, significant damages. If any of these events occur, our business and financial results could be adversely affected.

***Our CEO has control over key decision making as a result of his control of a majority of our voting stock.***

Mark Zuckerberg, our founder, Chairman, and CEO, is able to exercise voting rights with respect to a majority of the voting power of our outstanding capital stock and therefore has the ability to control the outcome of matters submitted to our stockholders for approval, including the election of directors and any merger, consolidation, or sale of all or substantially all of our assets. This concentrated control could delay, defer, or prevent a change of control, merger, consolidation, or sale of all or substantially all of our assets that our other stockholders support, or conversely this concentrated control could result in the consummation of such a transaction that our other stockholders do not support. This concentrated control could also discourage a potential investor from acquiring our Class A common stock due to the limited voting power of such stock relative to the Class B common stock and might harm the trading price of our Class A common stock. In addition, **Mr. Zuckerberg has the ability to control the management and major strategic investments of our company as a result of his position as our CEO and his ability to control the election or replacement of our directors.** In the event of his death, the shares of our capital stock that Mr. Zuckerberg owns will be transferred to the persons or entities that he designates. As a board member and officer, Mr. Zuckerberg owes a fiduciary duty to our stockholders and must act in good faith in a manner he reasonably believes to be in the best interests of our stockholders. As a stockholder, even a controlling stockholder, Mr. Zuckerberg is entitled to vote his shares, and shares over which he has voting control as a result of voting agreements, in his own interests, which may not always be in the interests of our stockholders generally.

***We plan to continue to make acquisitions, which could harm our financial condition or results of operations and may adversely affect the price of our common stock.***

As part of our business strategy, we have made and intend to continue to make acquisitions to add specialized employees and complementary companies, products, or technologies. We may not be able to find suitable acquisition candidates, and we may not be able to complete acquisitions on favorable terms, if at all. In some cases, the costs of such acquisitions may be substantial. For example, in 2014 we paid approximately \$4.6 billion in cash and issued 178 million shares of our Class A common stock in connection with our acquisition of WhatsApp, and we paid approximately \$400 million in cash and issued 23 million shares of our Class B common stock in connection with our acquisition of Oculus. We also issued a substantial number of RSUs to help retain the employees of these companies. There is no assurance that we will receive a favorable return on investment for these or other acquisitions.

In the future, we may pay substantial amounts of cash or incur debt to pay for acquisitions, which could adversely affect our liquidity. The incurrence of indebtedness would also result in increased fixed obligations, increased interest expense, and could also include covenants or other restrictions that would impede our ability to manage our operations. We may also issue equity securities to pay for acquisitions and we regularly grant RSUs to retain the employees of acquired companies, which could increase our expenses, adversely affect our financial results, and result in dilution to our stockholders. In addition, any acquisitions we announce could be viewed negatively by users, marketers, developers, or investors, which may adversely affect our business or the price of our common stock.